

Message Text

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ORIGIN TRSE-00

INFO OCT-01 EUR-12 IO-13 ISO-00 EB-07 L-03 STR-04
COME-00 LAB-04 FEA-01 AGRE-00 CEA-01 CIAE-00
DODE-00 FRB-03 H-01 INR-07 INT-05 NSAE-00 NSC-05
PA-01 EPG-02 AID-05 SS-15 ITC-01 USIA-06 PRS-01
SP-02 OMB-01 AF-10 ARA-10 EA-07 NEA-10 /138 R

DRAFTED BY TREASURY:MMICHAEL/MGADBAW:LPP
APPROVED BY EB/OT/STA:JSPIRO
L/EB:CROH
EB/OT/STA:TO'HERRON
TREASURY:WCARLSON
TREASURY:HHUFBAUER
STR:JGRAHAM
COMMERCE:SGRAVEN
LABOR:FLAVALLEE

-----047026 230314Z /65

P R 222248Z JUL 77
FM SECSTATE WASHDC
TO USMISSION GENEVA PRIORITY
INFO AMEMBASSY BRUSSELS
AMEMBASSY THE HAGUE
AMEMBASSY PARIS

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USEEC

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: GATT COUNCIL - DISC

1. SERIOUS CONSIDERATION HAS BEEN GIVEN TO THE MISSION'S
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VIEWS PER PARAGRAPH 2 REFTEL. HOWEVER, WE BELIEVE THAT THE
UNITED STATES SHOULD REFRAIN FROM ENGAGING IN A COUNCIL
DEBATE OVER THE ANALYSIS APPLIED BY THE PANELS. THE
FOLLOWING TALKING POINTS (PARAGRAPHS 2 - 6 BELOW) MAY BE
DRAWN ON AS APPROPRIATE FOR DISCUSSION OF THIS ITEM IN THE
COUNCIL.

2. THE U.S. POSITION REGARDING ADOPTION BY THE GATT COUNCIL OF THE FOUR PANEL REPORTS ON TAX PRACTICES AFFECTING EXPORTS HAS NOT CHANGED. THE U.S. CONTINUES TO BELIEVE THAT THE PANELS' REPORTS SHOULD BE ADOPTED BY THE GATT COUNCIL. THIS ACTION WOULD BE IN KEEPING WITH ESTABLISHED GATT PRACTICE AND IS ESSENTIAL TO AVOID AN EROSION OF THE GATT DISPUTE SETTLEMENT MECHANISM.

3. ADOPTION OF THESE REPORTS BY THE GATT COUNCIL WOULD HELP SET THE STAGE FOR THE IMPORTANT TASK OF REVIEWING THE INTERNATIONAL RULES ON SUBSIDIES OF WHICH TAX PRACTICES ARE ONE ASPECT. THE UNITED STATES BELIEVES THAT THE IMPORTANCE OF THIS TASK CANNOT BE OVERLOOKED IF WE ARE TO

REACH A SUCCESSFUL CONCLUSION TO THE MTN.

4. AT THE SAME TIME, THE UNITED STATES TAKES ITS GATT OBLIGATIONS, AND THE FINDINGS OF THE PANELS, VERY SERIOUSLY. IN THIS CONNECTION, THE CARTER ADMINISTRATION IS CONSIDERING RECOMMENDING TO CONGRESS THAT THE DISC LEGISLATION BE REPEALED. HOWEVER, THIS DOES NOT WEAKEN OUR DETERMINATION TO SEE OTHER COUNTRIES BRING THEIR PRACTICES INTO LINE WITH APPROPRIATE INTERNATIONAL RULES.

5. THE UNITED STATES DOES NOT CONSIDER IT ADVISABLE OR APPROPRIATE TO ENGAGE IN A DEBATING SESSION IN THE COUNCIL LIMITED OFFICIAL USE

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REGARDING THE PANELS' ANALYSIS OF THE ISSUES ADDRESSED TO THEM. GIVEN THE IDENTICAL MEMBERSHIP OF THE PANELS AND THE PARALLEL ANALYSIS APPLIED BY THEM TO ALL THE PRACTICES INVOLVED, THE UNITED STATES DOES NOT SEE HOW GOVERNMENTS CAN TAKE ISSUE WITH SOME OF THE REPORTS WITHOUT UNDERMINING THE BASIS OF ALL OF THE REPORTS. CONSEQUENTLY, IF OTHER COUNTRIES ARE PREPARED TO BLOCK ADOPTION OF THE REPORTS ON THEIR TAX PRACTICES, THE UNITED STATES CANNOT ACCEPT ADOPTION OF THE DISC REPORT.

6. THIS DOES NOT MEAN, HOWEVER, THAT THE UNITED STATES HAS NOT GIVEN SERIOUS THOUGHT TO THE OBJECTIONS RAISED BY FOREIGN GOVERNMENTS TO THE PANEL REPORTS. RATHER, WE BELIEVE THAT THESE WERE THE VERY ISSUES WHICH THE PANELS WERE ASKED TO DECIDE. NOW THAT THE PANELS HAVE REACHED THEIR DECISIONS INTERPRETING EXISTING GATT RULES, WE BELIEVE THAT THE NEXT STEP SHOULD BE TO ADOPT THE DECISIONS AND EXAMINE THEIR IMPLICATIONS IN THE LARGER CONTEXT OF MTN DISCUSSIONS OF SUBSIDIES.

7. THE ABOVE TALKING POINTS SET OUT THE U.S. POSITION FOR THE COUNCIL DISCUSSIONS. HOWEVER, WE WISH TO AVOID THE

IMPRESSION THAT THE UNITED STATES HAS NO RESPONSE TO THE SPECIFIC POINTS MADE BY FRANCE, BELGIUM AND THE NETHERLANDS IN ATTACKING THE PANEL REPORTS ON THEIR PRACTICES. THEREFORE, IN ADDITION TO THE POINTS MADE IN PARA 6 REFTEL, THE FOLLOWING POINTS (PARA 8 BELOW) MAY BE DRAWN ON BY U.S. REPS IN INFORMAL DISCUSSIONS WITH FOREIGN DELS.

8. THE UNITED STATES DOES NOT QUESTION THE TERRITORIAL SYSTEM INSOFAR AS IT REPRESENTS A REASONABLE APPROACH TO THE AVOIDANCE OF DOUBLE TAXATION OF FOREIGN INCOME. HOWEVER, THE PANELS RECOGNIZED THAT THE EXEMPTION OF FOREIGN INCOME FROM TAX CAN RESULT IN THE REMISSION OF TAXES ON EXPORTED GOODS. THE U.S. BRIEF AGAINST THE TAX LIMITED OFFICIAL USE

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PRACTICES OF FRANCE, BELGIUM AND NETHERLANDS DEMONSTRATED HOW THE TAX SYSTEMS OF THOSE COUNTRIES CAN BE USED TO EXEMPT A PORTION OF THE EXPORT INCOME FROM TAX IN THE HOME (I.E. EXPORTING) COUNTRY. THIS EXEMPTION REDOUNDS TO THE BENEFIT OF THE PARENT CORPORATION, UNLIKE THE CASE OF INDEPENDENT ENTITIES, AND CONSTITUTES AN EXPORT SUBSIDY. THE FRENCH, BELGIANS AND DUTCH ARE NOT QUESTIONING THIS BASIC POINT, BUT RATHER ARE INJECTING DEFINITIONAL QUESTIONS WHICH DO NOT REFUTE THE BASIC EFFECT OF THEIR SYSTEMS. VANCE

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, INSTRUCTIONS, COMMITTEES, FOREIGN TRADE
Control Number: n/a
Copy: SINGLE
Sent Date: 22-Jul-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE172156
Document Source: CORE
Document Unique ID: 00
Drafter: MMICHAEL/MGADBAW:LPP
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770263-0237
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770727/aaaaaxel.tel
Line Count: 146
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 8bdbf264-c288-dd11-92da-001cc4696bcc
Office: ORIGIN TRSE
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: n/a
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 01-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1771080
Secure: OPEN
Status: NATIVE
Subject: GATT COUNCIL - DISC
TAGS: ETRD, US, GATT
To: GENEVA USEEC
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/8bdbf264-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009